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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,092	09/23/2003	Michael M. Gerardi	MMG-2	1854

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EXAMINER

DONELS, JEFFREY

ART UNIT PAPER NUMBER

2837

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/669,092

Applicant(s)

GERARDI ET AL.

Examiner

Jeffrey Donels

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13, 15-17, 25, 26, 28-32, 34 and 35 is/are rejected.
- 7) ☒ Claim(s) 12-14, 18-24, 27 and 33 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,9,31,32,34,35 are rejected under 35 U.S.C. 102(b) as being fully met by Caulkins et al.

Caulkins et al discloses an automated stringed instrument which comprises strings 112, pluckers 120, and control means (Fig. 5a) which control the pluckers; the plucking frequency of which is dependent on whatever notes are called for in the MIDI data.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 25,26,30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caulkins et al.

Caulkins et al (applied in a similar manner here as above) discloses all features claimed, but does not explicitly disclose the second plurality of strings, control means,

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and pluckers as recited. It has been held that the mere duplication of working parts does not constitute nonobviousness (*In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960)).

Regarding Claim 3, Caulkins et al does not explicitly disclose the material of the strings used, but it is noted that the use of metal strings in a guitar is notoriously old- and well-known in the art of musical instruments, and to do so would be useful in attaining a certain sound or working with certain pickups.

Claims 4,5,15-17,28,29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caulkins et al in view of Santucci.

Caulkins (applied in a similar manner as above) discloses all features claimed, but does not disclose bass and guitar strings, the particular tuning recited, pickups, an amplifier. Santucci discloses a combination guitar and bass which comprises all these features (Fig. 1; Col. 2). It would have been obvious to one of ordinary skill in the art to adapt the teachings of Caulkins with those of Santucci, so as to allow for a greater variety of guitar tones to be produced in the automatic fashion of Caulkins.

Regarding Claims 28 and 29, neither Caulkins nor Santucci explicitly disclose such audio effects or volume control; however, it is noted that such is notoriously old and well-known in the art of electric guitars, and the use of such would be obvious in that a greater variety of sound effects could be generated.

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caulkins et al in view of Santucci, and further in view of Cavicchioli.

Regarding Claims 6-8, neither Caulkins nor Santucci explicitly disclose a first plurality of frets corresponding to a bass guitar and a second plurality of frets corresponding to an electric guitar; Cavicchioli discloses a stringed musical instrument which comprises these first and second plurality of frets (Fig. 1). It would have been obvious to one of ordinary skill in the art to adapt the Caulkins/Santucci combination with the Cavicchioli teachings, as it would enable the user to play the guitar strings at their proper tunings more easily.

Claims 12-14,18-24,27,33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Benson, Sullivan, Dolan et al, Cooper, Jacobson et al and Freimuth et al are further cited to show related teachings in the art.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Donels whose telephone number is 571-272-2061. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2800 ext 37. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jeffrey Donels
Primary Examiner
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